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Mistaking Silence for Consent – Recognising Power Dynamics in Environmental and Social Assessment

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Executive Summary

This policy brief examines the missing gap in the assessment of power in Environmental Impact Assessments (EIAs) and Social Impact Assessments (SIAs) prior to project development, leading to the mis-assessment of community agreement for developmental and economic projects. Assessments that do not recognize and engage with the consequences of power dynamics would lead to mis-assessment of the true preference of the community, leading to inequitable outcomes to the community.

Quiescence is the silence of the community in the face of overt environmental harms to the community due to the power of political and corporation on the community. This silence could be both in the form of silence after suppression, or the lack of opposition due to the fear of retribution or ideological beliefs shaped by political and corporate power. Examining the case of the post-assessment protest on the building of the Nenggiri hydroelectric dam and the community complaints of ineffective resolution processes for palm oil concessions certified by the Roundtable on Sustainable Palm Oil (RSPO), corporate power and collusion with political power seem to have led to the creation of power dynamics where ostensible silence from the community seem to mean consent to the projects. A preliminary prediction of environmental degradation, in this case wildfire in palm oil concession, with corporation identity, corporate-political collusion and local political factors using machine learning methods could help to examine some of the important power dynamic factors that need to be considered.

Addressing the gaps in EIAs and SIAs in recognizing power dynamics would require the ensuring of the independence in the processes, the local power dynamics within the community discussion and the inclusiveness of the process. In particular, the community, NGOs and other civil societies need to be able to contest with the power of corporation in the community. Taking an environmental justice lens could systematically inform a more effective assessment process.

Mis-assessing Power in Environmental and Social Impact Assessment

Environmental Impact Assessments (EIA) and Social Impact Assessments (SIA) have been used as key requirements for sustainable development and procurement of commodities from developing countries. The increasing pre-requirements from international aid agencies, international development organizations and foreign investors and customers, plus civil society activism have led to governments requiring EIA and SIA's as a condition before economic and infrastructure projects. For example, palm oil certification regimes like the Roundtable on Sustainable Palm Oil (RSPO) require Free, Prior, and Informed Consent (FPIC) of the community and EIA of the palm oil concession for the palm oil to be certified as sustainable (Nash 2022). Communities are also provided channels to lodge complaints to RSPO against certified palm oil companies if violations occur. Similarly, multilateral development banks such as the World Bank requires countries that access financing from them to adhere to environment and social policies, together with environmental assessments (World Bank, n.d.).

The early forms of EIAs were started in the United States in the 1960s (Caldwell 1988), which was subsequently officially recognized at the 1992 Rio Earth Summit as a tool to inform decisions-making in sustainable development and the protection of biodiversity (Sanchez & Croal 2012). These tools have become increasingly become legally required at the national level when planning for development or economic projects, while being required by multilateral development banks as a pre-requisite for funding. The key role in EIAs is to prevent harm to the environment through assessing environmental and other socio-economic factors on the ground. Initially limited to environmental data, these assessments are increasingly expanding into public participation and other social considerations (UN Environment 2018). The formal process created is supposed to provide a systematic way of assessing environmental considerations and other socio-economic considerations. This process involves multiple stakeholders from within government, but also engaging with independent technical experts, NGOs, affected communities and the general public. These assessments are done in the planning stage of the project, but are also used as evidence if post-project violations occur. SIAs are a subset of EIAs that more specifically engage with understanding the social impacts of projects on the community, especially focused on examining the impact to the way of life, culture and community (Hassan 2018). Some countries, like Malaysia, adopted SIAs with government monitoring to safeguard community welfare and outcomes alongside the development.

On the surface, these engagements should empower community participation in the process to ensure environmentally and socially sustainable outcomes. These processes supposedly increase transparency, democratizing the process for communities to both lodge concerns and obtain recourse throughout. In an ideal outcome, only projects that pass these assessments are able to proceed, while communities are able to affect the process pre- and post-project development.

However, the reality of the outcome of these assessments do not always reveal the true preferences of the community. Projects ostensibly passed the environmental and social assessments requirements when the community has consented to it, but subsequent protests seem to reveal the flaws in the process of assessments. For example, the building of the Nenggiri Hydroelectric Dam in Kelantan, Malaysia, was supposed to have passed these environmental and social impact assessment (Bernama 2022), yet the protests by the Orang Asli communities against the dam reveal strong disagreement to the project (FMT Reporters 2021). This is despite the assurances of Tenaga Nasional, the main state-owned energy company in Malaysia that owns the project that a deal was made with the community. This is just a tip of the iceberg—for every protest that occurs too, many other community may privately oppose the projects, but publicly silent in the assessment engagement.

Why is there a gap in the seemingly lack of opposition in the assessment reports compared to the actual opposition on the ground? Whilst there may be cases of fabrication, these engagements probably did occur, with a major caveat. The engagement itself ignores the power imbalances that occur within these sessions, omitting how they manifest within the sessions and impact the community as a whole. The economic and political power of the corporation and the state can coerce and dominate the community to silence, wielding economic and ideological influences to silence the community. Therefore, this silence did not mean consent, but a product of the coercion.

This imbalance in power and the subsequent community quiescence is especially pertinent for large-scale projects, especially in the rural areas in the Global South where the gap in power and economic outcomes is particularly large. Large corporations, in collusion with the state, could assert direct power on policy and regulation, indirect agenda-setting and ideological power in silencing the community. These could come in the form of direct repression and coercion, selective report and agenda-setting, until the subtler manipulation of communities themselves through pressure tactics and misinformation in the community.

EIAs and SIAs need to be alert over the possible inequities in the process, acknowledging that the power imbalances between the corporation and the state with the community will shroud possible opposition.

The independence of the assessor needs to be guaranteed to prevent the censoring of unfavourable reports. Ultimately, community engagements themselves are crucial as tools in empowering the community. The subversion of these engagements by corporate interest and state collusion may end up simply as an exercise akin to greenwashing, undermining the autonomy of the communities that are already disadvantaged and marginalized.

The policy paper will first examine the corporate power and quiescence of the community. The paper will then examine the manifestation of community quiescence in the case of Southeast Asia, before concluding with reflections on the system.

Defining Silence as Quiescence

Quiescence is the silence of the community in the face of overt harms to the community, such as environmental harms, due to the power of political and corporation in silencing the preferences of the community. This silence could be both in the form of silence after suppression, or the lack of opposition due to the fear of retribution or ideological beliefs shaped by political and corporate power.

Understanding the quiescence of the community as a result of corporate power is not new, and some of its early examples in the United States reveal some of the factors and mechanism leading to the lack of opposition to environmental degradation. These cases provide the basis of understanding how quiescence can occur with corporate power, and serve as anchors when understanding the forms of quiescence in Southeast Asia.

The puzzle of the lack of opposition to visible environmental degradation in the United States have traced the mechanisms of how companies have managed to suppress the community in their opposition and influenced community ideologically to silence. Crenson (1971) compared outcomes of air pollution regulations in two industrial cities in the United States: Gary and East Chicago, in tracing the mechanisms that lead to East Chicago adopting the enforcement of air pollution earlier and more forcefully than Gary (Crenson 1971). The role of the steel conglomerate, US Steel in Gary became the key player in the delays in enforcement in Gary, where the company had managed to “un-politicize” the issue of air pollution due to its influences in the Gary city governance. Crucially, US Steel did not employ direct power to force changes in the city governance, instead using ideological and reputational influence in shaping the ideologies in the city government and the community. With a weak mayoral system, this led to the seeming silence of the community despite the threat of air pollution harming the community. This is in contrast to East Chicago, where there isn’t one dominant company like US Steel and where the strong mayor and key officers were able to drive policies which secure environmental protection laws.

How could dominant companies influence communities into quiescence? Gaventa (1982) examined the power of a dominant coal mining company in the rural towns of the

Appalachian Mountains of the United States in suppressing opposition and enforcing quiescence (Gaventa 1982). The outcome was the surprising lack of opposition to the company by the miners, despite the poor health outcomes of the miners due to the coal mining process. The company actively suppressed and undermined the labour union that fought for worker's health both through the structure and through propaganda and misinformation. The former included more direct intimidation and threats to the miners and the union leaders, while also buying out and controlling local politicians for friendlier outcomes for the company. The latter undermined the reputation of the unions while setting the policy agenda, and more sinisterly, created and inculcated the ideological ideas of the culture and identity of the community inexorably tied to coal mining, overriding the health and environmental concerns.

These ideas raise two major points. Firstly, the silence and quiescence of the community is not the direct reflection of the individual and the community's beliefs, but rather the outcome of these beliefs influenced by the powers around the community. This is especially so for rural communities where the relative power distance with the companies is large—this silence may not be that the community tolerates the environmental impact, but rather is incentivized, coerced or even acculturated to receive it as their own identity. Therefore, the lack of voice in a formal assessment does not mean there is no opposition. Secondly, the cases highlight the three mechanisms where the corporation is able to enforce quiescence: direct intervention into the community, setting favourable policy agenda through client politicians, and ideological influence on the community through media, mis-information and the constructing of identities.

Community Quiescence in Assessments in Southeast Asia

Quiescence and power of the corporation on manipulating, coercing and influencing communities in the process of community engagement and assessments are not surprising in the context of economic and development projects in Southeast Asia. Reports on intimidation and coercion by corporations and colluding corporations have been found to occur, including the exploitation of local community leadership structures and the manipulation of the bureaucratic reporting processes. Subtle manipulation, such as delayed publication of EIA and SIA to shorten the duration of possible complaints are also commonly heard. The use of ostensibly independent, well-respected universities seems to be involved in greenwashing the assessment.

To illustrate some of these concerns, the protests against the Nenggiri hydroelectric dam in Kelantan, Malaysia illuminates the gap between the seemingly high rates of agreement by the community to the projects compared to protests on the ground. The 300 Megawatts hydroelectric dam that is being built by TNB Power Generation Sdn Bhd, a subsidiary of the state-owned energy company Tenaga Nasional Berhad (TNB), will have a main reservoir that spans 53.84 sq km (The Sun 2022).

The project has supposedly gone through multiple environmental impact assessments, social impact assessments, heritage assessments and others, with almost 80% agreement of the indigenous Orang Asli villagers in the three villages that are involved in 2018, increasing from 69.5% in the first assessment in 2015. This public acceptance study was done by UKM Pakarunding Sdn Bhd, an arm of the National University of Malaysia (Universiti Kebangsaan Malaysia UKM), a public university in Malaysia. The government and TNB has also promised land and housing for the community, claiming that the community is satisfied with the compensation that is given to the community in their desire for modernization (Shauqi 2024).

Yet protests still persist from the villagers affected by the dam. Together with indigenous group activists, the Orang Asli villagers have protested multiple times, including at the administrative capital of Putrajaya (Dzulkifly 2022) on their opposition to the project. The key concerns are the destruction of livelihoods and the erasure of their histories and customs. The gap in reported satisfaction and clear expression of opposition in protest highlight the issues with these reporting themselves. Villagers reported that consultations were only with the leaders of the village who claimed unanimous agreement from the community, while only three villages were consulted instead of all the villages which could have been impacted (Tan 2024). NGOs have argued that the key reason is the lack of clear rules for the social impact assessments, and the lack of transparency with the reporting itself. Indeed, the environmental impact assessment for the Nenggiri dam was only published two or three days before the deadline for public comments, and was ostensibly kept as confidential despite its legal obligation to be publicly available (Tan 2024).

Another example is the ineffectiveness of the Roundtable on Sustainable Palm Oil (RSPO) in addressing community complaints in regard to RSPO certified palm oil plantations. Palm oil concessions seek RSPO certification on the palm oil output to fulfil international importing firm and country demands for sustainability, both with community assessments and an independent avenue for complaints for the community. While RSPO claims that the communities are consulted in the resolution process, some claim that these processes do not engage with the right people who are affected, while others have their complaints thrown out for “lack of evidence” (Coates 2023). The lack of use of RSPO mechanisms to potentially address complaints when tracking protest events in Indonesia also highlights the low confidence in the process, with the suspicion of the mechanism serving the corporation’s benefit (Berenschot et al. 2022). Beyond RSPO, the distrust of any recourse channels also comes from the threat of the informalized state that is formed between regulatory agencies and the corporation, where the intimidation by regulatory agencies like the police, army, the corruption agencies and even thugs, who are sometimes paid by the palm oil companies.

Politicians with connections to the palm oil companies were claimed to protect companies when protests arise. The informal ties lead to companies silencing the communities, while also reducing the legitimacy of RSPO processes. The capacity of local communities in engaging with the complexities of the palm oil conflicts and bureaucratic resolution mechanisms also matters, where the internal divisions may lead to unilateral agreements by the community leadership without consulting the community (Berenschot et al. 2022).

Preliminary Assessment of Political and Corporate Power in Predicting Environmental Degradation

Given the gaps that seem to be present with EIAs and SIAs as a mechanism in predicting environmental degradation, would it be possible to discover what factors related to corporate and political power can predict environmental degradation? Assuming that no community will willingly consent to destructive environmental degradation that will actively harm them, quiescence from the community would likely be due to the power of political and corporate power. Unveiling the political and corporate power that predicts environmental degradation would be more useful that only limiting an understanding of these powers in the rarer active protest events.

A preliminary examination of existing degradation through machine learning methods may shed light some light on the possible factors. The case of wildfires in the palm oil concession in Indonesia may help in identifying the relative importance of these factors. Many of the palm oil concessions ostensibly have to adhere to multiple international and certification pressures to ensure adherence to environmental protection, including the prevention of wildfires occurring in the palm oil concessions. However, wildfires are still common occurrences and used by corporations as a low-cost method of clearing the land (Varkkey 2015). These wildfires are highly destructive to the community, often having to suffer the destruction of the community and also poor health outcomes from the smog and haze that spreads from the wildfires.

A preliminary prediction model is used to highlight some possible factors through a machine learning method to incorporate multiple socio-economic and political factors to predict the frequency wildfire. The test case used is predicting wildfires at the village level in Indonesia in 2020. The village level is a few levels below the electoral district. Three different corporation and political characteristics are used to predict the frequency of wildfire:

- The first set of predictors is the type of company, whether the type of company is a group or individual company, and whether the company is an international company.
- The second set of predictors is whether the company is involved as a colluding company involved in the palm oil biofuels industry, where the license of production may be selectively given to particular companies with relationship with the politicians.
- The third set of predictors are political factors, that is which party won in 2019 and whether the village is aligned with the party that won in the larger constituency.

The model used is a boosted tree model, which is a structured machine learning model that optimizes the prediction of the output, in this case frequency of wildfires in palm oil concessions by village through a sequential optimization with weighted samples.

Figure 1 shows the top 10 most important predictor is whether the corporation is an international and group company, followed by whether the village voted with the winning party of the electoral district and whether the palm oil company was given the biodiesel licensing by the federal government. Amongst the international group companies, being a group company that is domiciled in Malaysia is the most important predictor, followed by the United Kingdom and Thailand. Amongst the winning political parties, Partai Keadilan Sejahtera (PKS) and Partai Persatuan Pembangunan (PPP) are the most important predictor. Both these parties happen to be Islamist parties in Indonesia. To note, these predictors do not show whether they would increase or decrease the frequency of fire, just whether they can more accurately predict the frequency of fire in the particular village.

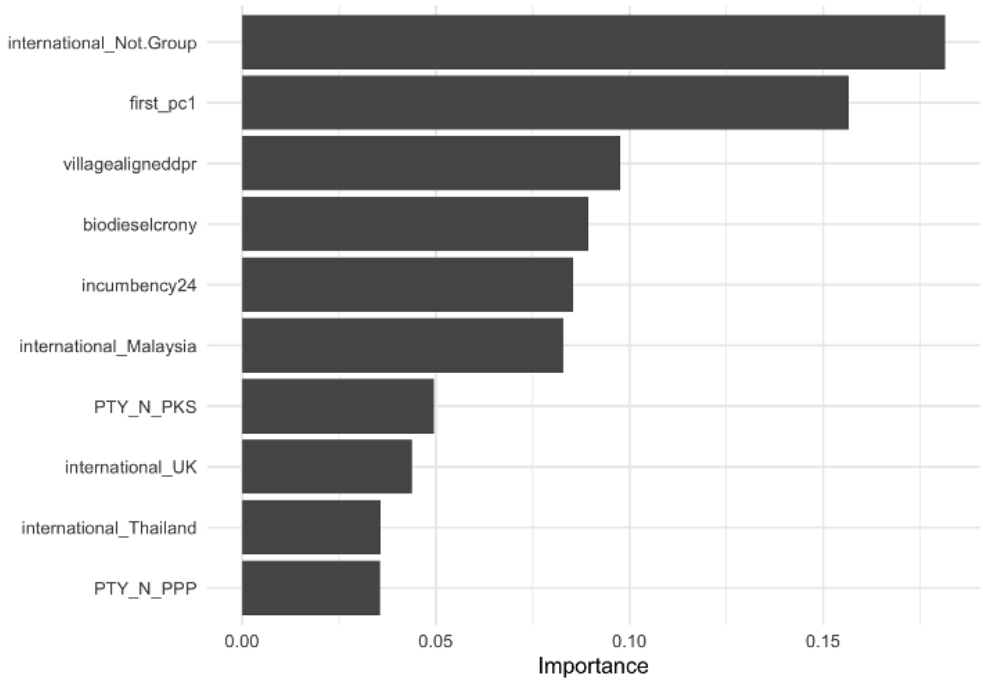

Figure 1: Variable Importance Plot

Sources: Mapbiomas Indonesia, Global Forest Watch, Kuipers 2014, 2019, Humanitarian Data Exchange, Auriga Nusantara

Recognizing Power

The power of the corporation at the local level and the collusion with local authorities meant that for every occurrence of opposition, there are many communities that under similar conditions are silent given the power of the corporation and the collusion with the state. Community agreement to sustainable palm oil may be a consequence of the political patronage, coercion or internal community complexities. The experiences of the Orang Asli community in Nenggiri and communities affected by palm oil plantations having processes that do not reflect their real beliefs, and the lack of punishment at the electoral level to increasing environmental degradation, show that the power and collusion between the politician and corporation have muted community opposition.

Revealing the true beliefs of the community requires taking account of the power dynamics outside and inside the community, including the collusive power of political leaders and corporations. Any serious environmental and social impact assessment will need to engage with this reality. The state must ensure that these assessments are independent through regulation to ensure impartiality in the assessment process, and multiple checks and balances are in place. Impact assessors need to take into consideration the power dynamics in the figurative room where assessments are done. Who is included or excluded in the discussion needs to be identified, while company or political representatives will need to be recognized.

Assessing which factors may predict the local degradation might provide hints for assessors to be aware of. The influence of corporate interest groups in the assessment process requires contestation from beyond civil society groups such as NGOs and activists in the process of impact evaluation. Most importantly, the recognition of this imbalance in power means that assessors, including university researchers, have the obligation to work with communities to voice out their beliefs. Without recognizing this reality of power, impact assessments risk being a part of the greenwashing projects that are opposed by the community and lead to greater impunity in harming the community, including environmental degradation and unfair treatment.

A useful lens to observing power is crucially through the lens of environmental justice, where a broader identification of the different injustices, including distributional, procedural and recognition justice, and the social inequalities that underlie that injustice (Pellow 2025). Distributional justice refers to equity in the distribution of environmental harm and risk in the community, while procedural justice refers to whether the decision-making process recognizes the political and cultural practices.

Identifying the shape and form of resistance, even in its silence, has always been a challenge. However, this silence and the influence of corporate and state power behind it needs to be identified.

Indeed, the understanding of the forms of resistance that is varied beyond overt protests comes from work in Southeast Asia in the everyday forms of resistance through James Scott's work in Malaysia (Scott 1985), serving as a reminder to pay attention to the quiet forms of resistance when doing these assessments.

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